

Implementation of the UN Convention on the Rights of the Child in Scotland (UK)

Additional submission to the UN Committee on the Rights of the Child ahead of the UK State Party Review on 18th and 19th May 2023

13th April 2023

Introduction

This briefing has been prepared by Together (Scottish Alliance for Children's Rights). It provides an update on key developments since the submission of our [comprehensive shadow report](#) (December 2022) and pre-session briefing (February 2023). It highlights further evidence in support of the recommendations suggested in our report, the [Children and Young People's Report](#), and our [joint submission](#) with partners in England, Wales and Northern Ireland ('four jurisdictions report').

New developments

Election of new First Minister

Humza Yousaf MSP was elected as Scotland's new First Minister on 27th March 2023. His campaign commitments included progressing UNCRC incorporation, tackling child poverty and expanding childcare provision. Mr Yousaf has appointed a new cabinet, including a new Minister for Children, Young People and Keeping the Promise.¹ It is not yet clear how, and to what extent, the changes within Scottish Government will affect existing commitments related to children. Together and our members will work alongside children to hold the new First Minister to account on his campaign pledges and existing Scottish Government commitments.

General measures of implementation

Incorporation of the UNCRC

It is now over two years since the Scottish Parliament unanimously passed the *UNCRC (Incorporation) (Scotland) Bill* but it still not law. The Bill needs to be amended to bring it within the powers of the Scottish Parliament. In March 2023, the (then) Minister for Children and Young People [wrote to children with an update on progress](#). She said that Scottish Government had sent proposed changes to the UK Government and was awaiting feedback "within the next few weeks". Depending on the response, she said Scottish Government intended to bring the Bill back to the Scottish Parliament before the summer recess (i.e. before July 2023). It is not clear whether a response has been received from UK Government.

[Children and young people wrote to all candidates for First Minister](#) asking for reassurance of their continued commitment to the *UNCRC (Incorporation) (Scotland) Bill*. [Humza Yousaf's reply](#) set out his commitment to progress the Bill and to work with children and young people on next steps.

For further information and suggested recommendations, please see:

- Together's report: [recommendation 1](#)

¹ The Promise was the result of the Independent Care Review. Scottish Government agreed to take a range of actions to improve experiences of people with care experience. See: *The Promise Scotland* (no date). <https://thepromise.scot/> [Date accessed: 13.04.23].

- Children and young people’s report: [page 4](#)
- Four jurisdictions report: [recommendation 1](#)

Incorporation of wider human rights treaties

Children, young people and Together members continue to express frustration at delays to public consultation on a Bill to incorporate several UN treaties into Scots law (CERD, CEDAW, CRPD, ICESCR and right to a healthy environment). There has been no update since a letter of 25th January 2023, in which the (then) Minister for Equalities and Older People said the consultation would launch in the first half of 2023.

For further information and suggested recommendations, please see the children and young people’s report: [page 11](#)

Human Rights Act

On 22nd March 2023, the UK Government responded to a [report by the Joint Committee on Human Rights](#) on the proposed repeal of the *Human Rights Act 1998* (HRA) and its replacement with a Bill of Rights. The Joint Committee’s report was clear that repealing the HRA would seriously weaken people’s ability to enforce their rights and undermine the universality of rights by making them conditional upon conduct. It called on UK Government to reconsider the majority of the Bill. [UK Government’s response](#) wholly dismisses these concerns. This is a further example of UK Government seeking to progress these reforms despite overwhelming evidence of their harmful impact on human rights protections.

For further information and suggested recommendations, please see:

- Together’s report: [recommendations 3 and 4](#)
- Four jurisdictions report: [recommendation 2](#)

Allocation of resources

The Scottish Parliament passed the Budget Bill on 21st February 2023.² Whilst child poverty is named as one of three key priorities, concerns have been raised by local government about the reduction in funding available to deliver local services, and the subsequent impact on health, wellbeing and widening inequality.³ The budget setting process involved no use of child rights impact assessment and no transparency of the evidence-based used to set budget priorities. In a deteriorating financial situation, Scottish Government should protect children’s rights in line with Article 4 UNCRC and the sub-duties of fulfilling minimum core obligations and ensuring non-regression and non-discrimination. Scottish Government should recognise that these obligations cannot be devolved to the local level without the allocation of adequate resources.

For further information and suggested recommendations, please see:

- Together’s report: [recommendation 9](#)
- Four jurisdictions report: [recommendation 11](#)

² Budget (Scotland) (No. 2) Bill. <https://www.parliament.scot/bills-and-laws/bills/budget-scotland-no2-bill-session-6/stage-3> [Date accessed: 10.04.23].

³ COSLA (2023). Letter to Convener of the Finance and Public Administration Committee. https://www.parliament.scot/-/media/files/committees/finance-and-public-administration-committee/correspondence/2023/budget_coslatoconvener_16feb23.pdf [Date accessed: 11.04.23].

Age of the child

Minimum age of marriage

The minimum age of marriage remains 16 in Scotland, falling behind international standards and progress in England and Wales since the pre-session.⁴ Scottish Government previously said it planned to consult on “whether” the age should be increased to 18. Civil servants have since advised that the likelihood, scope and timeline of any such consultation will depend on the priorities of the new First Minister and his cabinet.

For further information and suggested recommendations, please see:

- Together’s report: [recommendation 16](#)

General principles

Non-discrimination

During his election campaign, the new First Minister made numerous commitments to bring a legal challenge against the UK Government’s block on the *Gender Recognition Reform (Scotland) Bill*. The UK Government’s position is that the Bill will impact equalities legislation which is a matter reserved to the UK Parliament.⁵ On 12th April 2023, Scottish Government formally announced its intention to lodge a petition for judicial review.⁶ The next steps are not yet clear, nor are the potential implications for Scotland’s ability to fully and directly incorporate human rights treaties that include equalities protections such as CEDAW, CERD and CRPD.

For further information and suggested recommendations, please see:

- Together’s report: [page 20](#)
- children and young people’s report: [page 6](#)

Violence against children

Child sexual abuse

Civil society organisations have called on Scottish Government to develop a comprehensive and coordinated national approach to prevent child sexual abuse.⁷ Their research found that at least 80,000 children in Scotland will have been affected by sexual abuse before they leave secondary school. The charities have emphasised that the strategy should involve health, police, education, community safety, children’s services, social services, housing as well as the wider community.

⁴ UK Government (2023). *Legal age of marriage in England and Wales rises to 18*. <https://www.gov.uk/government/news/legal-age-of-marriage-in-england-and-wales-rises-to-18#:~:text=Vulnerable%20children%20across%20England%20and,18%20in%20England%20and%20Wales> [Date accessed: 11.04.23].

⁵ UK Government (2023). *Gender Recognition Reform (Scotland) Bill: statement from Alister Jack* [Date accessed: 02.02.2023].

⁶ Scottish Government (2023). *Section 25 Order challenge*. <https://www.gov.scot/news/section-35-order-challenge/>

⁷ NEN (2023). *Campaigners call on Scottish Government to develop national strategy to prevent child sexual abuse*.

<https://www.renfrewshire24.co.uk/2023/03/17/charities-call-on-scottish-government-to-develop-national-strategy-to-prevent-child-sexual-abuse/> [Date accessed: 13.04.23].

Online technologies

The [Online Safety Bill](#) has faced long delays but is expected to be passed by the UK Parliament later this year. Civil society organisations continue to call for the legislation to be strengthened, including stronger victim support⁸ and the creation of a child safety advocate.⁹

Violence against Women and Girls

New research has highlighted harassment, abuse and intimidation that girls and young women face on public transport in Scotland.¹⁰ Participants called for strengthened restrictions on alcohol consumption on public transport, increased staff presence, improved information (including for victims) and improved feedback loop on how complaints have been dealt with.

For further information and suggested recommendations, please see:

- Together's report: [recommendations 37-42](#)
- children and young people's report: [page 6](#)

Family environment and alternative care

Childcare

During his election campaign, the new First Minister committed to accelerate the expansion of free childcare to all one and two-year-olds.¹¹ This would extend the current position of funded childcare for all three and four-year-olds and some two-year-olds. Whilst supportive in principle, our members in the early learning and childcare sector have shared real concerns about their ability to implement this expansion effectively, particularly given existing capacity pressures arising from the previous expansion to 1140 hours. Ongoing issues include an increasing gap between local authority provision and that provided by private, voluntary and independent (PVI) sector. On 3rd April, the First Minister announced an additional £15million to support low-income families to access free childcare for school aged children.¹²

For further information and suggested recommendations, please see Together's report: [recommendation 47](#)

Young carers

New research released in March 2023 highlighted the urgent need for greater identification, recognition and support for young carers. More than half of participants said they spent more time caring than in the previous year, that they urgently needed more help with their mental health and almost half said they weren't getting enough (or any) help in education. Their calls to Scottish Government, released on Young Carers Action Day, included: extend financial support to unpaid

8 UK Safer Internet Centre (2023). UKSIC calls for Online Safety Bill improvements as reporting service's annual report highlights need for stronger victim support. <https://saferinternet.org.uk/blog/uksic-calls-for-online-safety-bill-improvements-as-reporting-services-annual-report-highlights-need-for-stronger-victim-support> [Date accessed: 11.04.23].

9 NSPCC (2023). Further demands for online safety advocate as politicians, charities and the public join the fight for children. <https://www.nspcc.org.uk/about-us/news-opinion/2023/further-demands-online-safety-advocate/> [Date accessed: 11.04.23].

10 Transport Scotland (2023). Women's and girls' views and experiences of personal safety when using public transport. <https://www.transport.gov.scot/media/52985/womens-and-girls-views-and-experiences-of-personal-safety-when-using-public-transport-summary-report-march-2023.pdf> [Date accessed: 11.04.23].

11 Bol, D. (2023). 'Humza Yousaf repackages SNP pledge on childcare expansion'. *The Herald*. <https://www.heraldsotland.com/politics/23351635.humza-yousaf-repackages-snp-pledge-childcare-expansion/> [Date accessed: 11.04.23].

12 Scottish Government (2023). Expanding school age childcare. <https://www.gov.scot/news/expanding-school-age-childcare/> [Date accessed: 11.04.23].

carers in full-time education; ensure that young carers who care for the same person can each access financial support; urgently introduce a Right to a Break from caring.¹³

For further information and suggested recommendations, please see Together's report: [recommendation 50](#)

Disability, basic health and welfare

Child poverty and food insecurity

Our report highlighted the mental distress that children and their families are experiencing as a result of the cost-of-living crisis. From 1st April 2023, Scottish Government increased a range of devolved social security benefits by 10.1%.¹⁴ While this increase is welcome, the uplift is not enough to offset the effects of UK Government welfare reforms, spiralling inflation, nor the scale of the current challenge.

For further information and suggested recommendations, please see:

- Together's report: [recommendation 56](#) and [recommendation 61-62](#)
- Children and young people's report: [page 11](#)
- Four jurisdictions report: [recommendation 54-56](#)

Alcohol marketing

Scottish Government's consultation on alcohol marketing and promotion closed on 9th March 2023. It sought views on a range of proposals including: prohibiting alcohol sponsorship of sports and events; prohibiting alcohol marketing in public spaces; prohibiting alcohol advertising; and restricting visibility of alcohol in retail settings. Together's response drew on research by Children's Parliament and Scottish Youth Parliament to highlight children's views, priorities and concerns.¹⁵

Education, leisure, culture

Right to play and play-based learning

Our report highlighted concerns around the early school starting age and the focus on literacy and numeracy at the expense of children's broader development.

New research, published in March 2023 shows some improvements in accessing outdoor play and learning - such as increased provision within early years settings.¹⁶ However, challenges remain including a decrease in time spent outdoors for primary school children, low staff confidence, and particular challenges accessing outdoor play and learning for children in larger schools and in more deprived areas.

In March 2023, Scottish Government announced planning reforms intended to boost play provision, including requiring local authorities to assess the adequacy of play spaces and consult local children

¹³ Carers Trust (2023). Young Carers Action Day 2023. <https://carers.org/young-carers-action-day-2023/young-carers-action-day-2023-campaign-pack> [Date accessed: 11.04.23].

¹⁴ Scottish Government (2023). Increase in social security benefits. <https://www.gov.scot/news/increase-in-social-security-benefits-1/> [Date accessed: 11.04.23].

¹⁵ Together (2023). Response to alcohol marketing consultation. <https://www.togetherscotland.org.uk/media/3309/alcoholmarketingmdjh.pdf> [Date accessed: 11.04.23].

¹⁶ NatureScot (2023). Report highlights need for school children to be more connected to nature. <https://www.nature.scot/report-highlights-need-school-children-be-more-connected-nature> [Date accessed: 11.04.23].

and communities.¹⁷ Scottish Government also announced £50million in funding to refurbish children’s play parks.¹⁸

For further information and suggested recommendations, please see Together's report: [recommendations 67-68](#) and [recommendations 74-75](#)

Bullying

New research from Education Scotland has highlighted that inconsistencies persist in how schools are recording and monitoring bullying.¹⁹ Around a third of schools inspected did not have a ‘whole school’ process for monitoring, making it difficult to identify patterns and therefore limiting proactive interventions by staff. By contrast, schools which had implemented systematic approaches for recording and monitoring reported a reduction in bullying behaviour.

For further information and suggested recommendations, please see Together's report [page 50](#).

Special protection measures

Administration of child justice

The *Children (Care and Justice) (Scotland) Bill* is at Stage 1 before the Scottish Parliament. A public consultation closed on 17th March 2023.²⁰ The Bill is part of Scottish Government’s commitment to reform the child justice system, including ensuring all under-18s have access to the Children’s Hearings System and ending the placement of children in Young Offenders Institutions. Despite its aims, the proposals protect the discretion to refer a child to an adult court where considered “appropriate”. The legislation does not affect the age of criminal responsibility, which remains below international standards at just 12 years old.

For further information and suggested recommendations, please see:

- Together's report: [recommendations 83-87](#)
- Four jurisdictions report: [recommendation 70-74](#)

Asylum-seeking, refugee and migrant children

Together members are deeply concerned at UK Government’s proposed ‘[Illegal Migration Bill](#)’.²¹ If passed, it will have a deeply negative impact on children’s human rights: children who have not arrived via very limited “safe routes” (defined by UK Government) will be blocked from protection as refugees and victims of trafficking; children will become potentially subject to indefinite detention and removal; and children will face deportation, including to Rwanda. No child rights impact assessment (CRIA) has been published nor is there any evidence that children’s rights have been considered.

Together and our members are strongly opposed to the Bill and call on the UN Committee to recommend that the UK Government abandons these plans.

17 Scottish Government (2023). *Supporting outdoor play*. <https://www.gov.scot/news/supporting-outdoor-play/> [Date accessed: 11.04.23].

18 Scottish Government (2023). *Renewing Scotland’s play parks*. <https://www.gov.scot/news/renewing-scotlands-play-parks-1/> [Date accessed: 11.04.23].

19 Education Scotland (2023). *National Review: Approaches to recording and monitoring incidents of bullying in schools*. <https://education.gov.scot/education-scotland/what-we-do/inspection-and-review/chief-inspector-report/national-thematic-inspections/national-review-approaches-to-recording-and-monitoring-incidents-of-bullying-in-schools/> [Date accessed: 11.04.23].

20 Scottish Parliament (2022). *Children (Care and Justice) (Scotland) Bill* [Date accessed: 11.04.23]

21 JustRight Scotland (2023). *Scotland rejects the Refugee Ban Bill*. <https://www.justrightscotland.org.uk/2023/03/scotland-rejects-the-refugee-ban-bill/> [Date accessed: 11.04.23].

Contact

For further information, please contact Maria Doyle, Legal & Policy Manager

Together (Scottish Alliance for Children's Rights)

Tel: **0131 5101 565** Email: maria@togetherscotland.org.uk

Web: www.togetherscotland.org.uk Twitter: [@together_sacr](https://twitter.com/together_sacr)

The Melting Pot, 15 Calton Road, Edinburgh, EH8 8DL